THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.4266 of 2006

Between:

Mohd.Abdul Waheed. … Petitioner

and

The Housing Development Finance Corporation Limited. … Respondent

ORDER:

The petitioner availed housing loan of Rs.1,60,000/- from the respondent Corporation by executing loan agreement, dated 07-02-2001, repayable along with interest in 180 equal monthly instalments at the rate of Rs.2,024/- per month commencing from 01-02-2002. As the petitioner committed default in payment of 20 monthly instalments, a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act") was issued to the petitioner on 29-07-2005 demanding him to pay outstanding amount of Rs.1,95,234/- as on 31-05-2005. Infact, prior to the said notice, the respondent also issued a legal notice on 23-09-2004. As there was no reply, notice under Section 13(2) of the Act was issued to the petitioner. As the petitioner deliberately returned the said notice with the postal endorsement "unclaimed", notice under Section 13(2) was also published in the News Papers both in English and Telugu editions on 22-09-2005 and 23-09-2005 respectively. Even after the said publication, the petitioner did not choose to give any reply and, therefore, possession notice, dated 27-02-2006, was affixed. Questioning the said possession notice, the petitioner filed this writ petition.

This Court by order, dated 06-03-2006 in W.P.M.P.No.5343 of 2006, granted interim stay on condition of the petitioner depositing an amount of Rs.50,000/- within a period of six weeks from 06-03-2006.

Learned counsel appearing for the respondent submits that the said

conditional order has not been complied with.

When the matter has been taken up for hearing on 31-08-2007, there was no representation on behalf of the petitioner. Therefore, the matter was directed to be posted today under the caption “for dismissal”. Today, when the matter is taken up for hearing, none appeared for the petitioner.

As the petitioner failed to give any reply to the notice issued under Section 13(2) of the Act, I am of the opinion that the action of the respondent in issuing possession notice cannot be found fault with. Further, as against the said order, an appeal lies under Section 17 of the Act before the Appellate Authority. Therefore, the petitioner is not entitled for any relief as claimed in this writ petition.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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05-09-2007

Prv